

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**BOARD OF ZONING ADJUSTMENT**



Application No. 16258 of James Mula, pursuant to 11 DCMR 3107.2, for a variance to allow an addition to an existing nonconforming structure that now exceeds the allowable lot occupancy and floor area ratio limitation, does not meet the rear yard requirements and will increase the nonconformities [Paragraph 2001.3(a), (b) and (c)], a variance from the lot occupancy requirement (Subsection 772.1), a variance from the floor area ratio requirement (Subsection 771.2) and a variance from the rear yard requirement (Subsection 774.1) for a deck addition to a nonconforming residential/office structure in a C-1 District at premises 2615 P Street, N.W. (Square 1265, Lot 98).

**HEARING DATE:** September 17, 1997  
**DECISION DATE:** September 17, 1997

**ORDER**

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register and by mail to Advisory Neighborhood Commission (ANC) 2E and to owners of property within 200 feet of the site. ANC 2E, which is automatically a party to this application, filed a written statement in opposition.

By report dated September 10, 1997, ANC 2E indicated that the commission is opposed to granting the applicant's request. The applicant proposed to construct a wooden deck on the second floor of the subject three-story building. The ANC indicated that the applicant is unable to meet the following three standards required for granting an area variance: (1) the property is not unique by reason of exceptional narrowness, shallowness, shape or topography; (2) the owner is not encountering peculiar and exceptional practical difficulties as a result of the site's zoning; (3) and, the variance cannot be granted without substantial detriment to the public good.

Correspondences were also received from two abutting property owners stating their objection to the Board's approval of the application. The property owners indicated that the deck would invade their privacy and infringe on the peaceful enjoyment of an outdoor garden, that the deck would enlarge an already existing nonconforming building, that the application invites contempt for the Zoning Regulations, and that the deck would be located in a confined rear yard space, thus having a negative impact on the value of adjacent buildings.

The Board gave great weight to the ANC's report, however, finds that a practical difficulty exists at the site. The subject lot is particularly small, it contains only 541 square feet. Although no specific lot size is required in the C-1 District, the property is exceptionally shallow. It is the third smallest of all of the lots in the square. There is no other lot in the square with a similar size, they are all different. In addition, the subject dwelling is 133 years old. It was constructed in 1864, 94 years prior to May 12, 1958 when the city's Zoning Regulations were enacted. These factors are inherent in the property, they contribute to the nonconforming aspects of the premises, and cause a practical difficulty for the applicant.

The Board finds that the building is located in the Georgetown Historic District and that this project was forwarded to the District of Columbia Historic Preservation Review Board and the Commission of Fine Arts for review. Correspondence was submitted stating that the proposed deck addition would not be visible from public space and therefore no historic preservation review action was required. There is no alley access to the property.

The Board finds that the property is zoned C-1. This zoning classification (neighborhood shopping) permits use of the premises for commercial purposes, exclusively. The site is used for residential and commercial purposes. It is used less intensely than that permitted by matter-of-right zoning.

The Board finds, based on the applicant's statement, that the structure is served by one internal stair, and that the residential component of the building does not have access to the rear yard. The proposed deck, in addition to being used for leisure purposes, would provide an emergency egress from the second floor of the structure.

The Board finds that the addition can be constructed without creating adverse impacts on the neighborhood and without substantial detriment to the public good. The adjacent structures that are located to the east of the site extend farther into their rear yards than the subject building. Also, the rear yard of the property located at 1504 26th Street, N.W. is currently visible by the abutting property owners. Vegetation and a wooden fence provide some screening. It is unlikely that the deck addition would significantly increase visibility into the abutting properties.

The file contains correspondences in support of the application from neighboring property owners. In addition, no opposition to the application was expressed at the public hearing.

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As directed by 11 DCMR 3324.2, the Board has required the Applicant to satisfy the burden of proving the elements which are necessary to establish the case for a variance from the strict application of the requirements of 11 DCMR 2001.3(a), (b) and (c), 772.1, 771.2 and 774.1.

Based upon the record before the Board, the Board concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3107. An exceptional or extraordinary situation or condition that is related to the property exists at the site and creates a practical difficulty for the owner in complying with the Zoning Regulations. In addition, the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map. It is therefore **ORDERED** that the application is **GRANTED**.

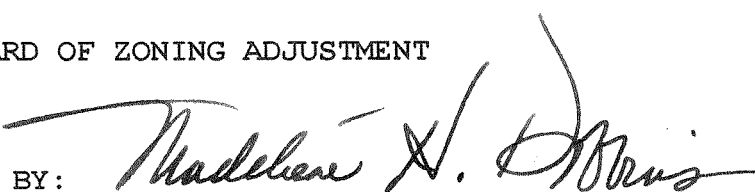
Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.1 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case.

VOTE: 3-0

(Betty King, Susan Morgan Hinton and Sheila Cross Reid, to grant; Laura M. Richards, not voting not having heard the case)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:

  
MADELIENE H. DOBBINS  
Director

FINAL DATE OF ORDER: OCT 17 1997

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PURSUANT TO D.C. CODE SEC.1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 310.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF TWO YEARS, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

16258/bab

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
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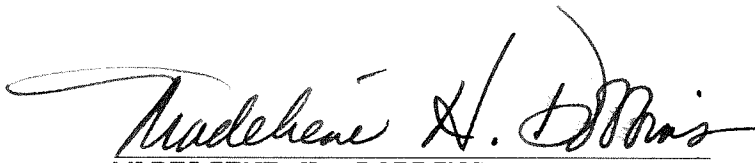


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As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on OCT 17 1997 a copy of the order entered on that date in this matter was mailed first class postage prepaid to each party who appeared and participated in the public hearing concerning the matter, and who is listed below:

James Mula  
2615 P Street, N.W.  
Washington, D.C. 20005

Fran Goldstein, Chairperson  
Advisory Neighborhood Commission 2E  
3265 S Street, N.W.  
Washington, D.C. 20007

  
MADELIENE H. DOBBINS  
Director

DATE: OCT 17 1997